

REMARKS

The claimed subject matter of the instant application is directed to: (1) an adjustable interlocking iliac crest belt adapted for use with a body brace; and (2) an adjustable interlocking iliac crest belt in combination with a body brace. See Summary of the Invention, page 9, lines 5-13 (second full paragraph) describing the adjustable interlocking iliac crest belt; and page 9, lines 14-21 (third paragraph) and the first two lines of page 10 describing the adjust interlocking iliac crest belt utilized in combination with the body brace.

Concomitantly, claims 31-46 as originally filed were directed to the adjustable interlocking iliac crest belt for use with a body brace. Claims 47-62 as originally filed were directed to the adjustable interlocking iliac crest belt in combination with the body brace.

The following remarks are divided along these lines as follows:

- (1) discussions regarding the relevance/applicability of the cited references in terms of amended claims 31-46 directed to the adjustable interlocking iliac crest belt; and
- (2) discussions regarding the relevance/applicability of the cited references in terms of amended claims 47-62 directed to the adjustable interlocking iliac crest belt in combination with the body brace.

AMENDED CLAIMS 31-46:

Amended independent claims 31, and the claims depending therefrom, are directed to an adjustable interlocking iliac crest belt assembly that comprises:

- (i) an elongated strip formed from a substantially rigid material;
- (ii) the elongated strip having a center portion and first and second ends;
- (iii) locking elements on the first and second ends;
- (iv) means for fastening the iliac crest belt to a body brace;
- (v) wherein the elongated strip is sized and shaped with the center portion positioned substantially against the lumbar spinal region of the back of the person and the first and second ends positioned against the front of the person when the iliac crest belt assembly is locked about the waist of the person, and
- (vi) the elongated strip being further sized and shaped to engage the iliac crests of the person when the iliac crest belt assembly is locked about the waist of the person

U.S. Patent No. 4,833,730 (Nelson):

The Applicant respectfully submits that the teachings of the '730 patent do not anticipate, nor render obvious, the iliac crest belt assembly as claimed in independent claim 31, and the claims depending therefrom, as amended.

Nelson specifically teaches an inner wrap (12) that is part of a back brace (10). See, e.g., Col. 2, lines 57-58. The iliac crest belt assembly of the present invention, in contrast, as claimed in amended independent claim 31, is not claimed as part of a brace, although the claimed iliac crest belt assembly does include a means for fastening the crest belt assembly to a body brace. Rather, the iliac crest belt assembly is a separate and distinct component (and is so claimed) designed to be used in combination with a body brace to fit the body brace to a person.

In addition, Nelson specifically teaches that the inner wrap (12) is formed from a linearly elastic material. See Col. 2, lines 59-61. Nelson does not teach or suggest that the inner wrap (12) could be formed from a substantially rigid material. Independent claim 31, in contrast, claims an elongated strap that is formed from a substantially rigid material, i.e., non-flexible material. See page 17, first two lines of last paragraph.

Further, Nelson specifically teaches that the inner wrap (12) of the back brace (10) is connected to an outer wrap (14) by means of a single longitudinal seam (28). See Col. 3, lines 24-26. Independent claim 31 of the instant application, as amended, does not recite or claim an outer wrap connected to the elongated strip in any manner, let alone by stitching, as taught by Nelson.

Further, Nelson specifically teaches that the inner wrap (12) of the back brace (10) has a support panel (33) comprising an outer layer (36) and an inner layer (37) connected to the inner wrap (12) by vertical and horizontal peripheral stitching (38, 40). See Col. 3, lines 59-68, and Col. 4, line 1. Independent claim 31 of the instant application, as amended, does not recite or claim a support panel connected to the elongated strip in any manner, let alone by stitching, as taught by Nelson.

Moreover, Nelson specifically teaches that the inner wrap (12) of the back brace (10) has a support pad (34) fixed at the upper and lower edges thereof by means of horizontal seams (54, 56). See Col. 4, lines 52-55. Independent claim 31 of the instant application, as amended, does not recite or claim any support pad fixed to the elongated strip in any manner as taught by Nelson.

Based upon the foregoing, the Applicant respectfully submits that the disclosure of Nelson does not anticipate, nor render obvious, the adjustable, interlocking iliac crest belt assembly of the instant application as claimed in independent claim 31, and claims depending therefrom, as amended.

U.S. Patent No. 6,165,147 (Morrow):

The Applicant respectfully submits that the teachings of the '147 patent do not anticipate, nor render obvious, the iliac crest belt assembly as claimed in independent claim 31, and the claims depending therefrom, as amended.

Morrow specifically teaches a brace (10) that comprises a front belt portion (12) and an enlarged rear portion (14). See Col. 2, line 67, and Col. 3, lines 1-2. The iliac crest belt assembly of the present invention, in contrast, as claimed in amended independent claim 31, is not claimed as part of a brace, although the claimed iliac crest belt assembly does include a means for fastening the crest belt assembly to a body brace. Rather, the iliac crest belt assembly is a separate and distinct component (and is so claimed) designed to be used in combination with a body brace to fit the body brace to a person.

In addition, Morrow specifically teaches that the enlarged rear portion (14) includes a molded depression (16). See Col. 3, lines 2-3. Independent claim 31, as amended, of the instant application, in contrast, does not recite or claim that the center portion of the elongated strip includes a molded depression as taught by Morrow.

Furthermore, Morrow specifically teaches that the enlarged rear portion (14) has mounted along its top edge an extended portion (20). Amended independent claim 31, in contrast, does not recite or claim that the center portion of the elongated strip includes an extended portion mounted to the center portion, as taught by Morrow.

Moreover, Morrow specifically teaches that a packet (40) having a plurality of liquid chambers is attached to the front of the molded depression (16). Independent claim 31, as herein amended, does not recite or claim any type of packet, let alone a packet having fluid filled chambers, attached to the center portion of the elongated strip, as taught by Morrow.

Based upon the foregoing, the Applicant respectfully submits that the disclosure of Morrow does not anticipate, nor render obvious, the adjustable, interlocking iliac crest belt assembly of the instant application as claimed in independent claim 31, and claims depending therefrom, as herein amended.

Based upon the Applicant's belief that the foregoing discussions have established the patentability of the claimed iliac crest belt assembly of the present application over the teachings of Nelson and Morrow, the Applicant respectfully submits that discussions regarding the teachings of Richards (U.S. Patent No. 5,207,635), Modglin (U.S. Patent No. 5,620,412), and Velazquez (U.S. Patent No. 3,771,513) are moot in connection with the iliac crest belt assembly as claimed in claims 31-62, as amended.

Based upon the foregoing discussions, the Applicant respectfully submits that amended independent claim 31, and claims depending therefrom, are patentably distinguishable over

the cited references of record. Accordingly, the Examiner is respectfully requested to reconsider the patentability of these claims in light of the foregoing discussions.

AMENDED CLAIMS 47-62:

Amended independent claims 47, and the claims depending therefrom, are directed to a body brace that comprises:

- (i) a first back element shaped to fit about a person's lower back region comprised of a substantially rigid plastic material;
- (ii) an elongated strip formed from a substantially rigid material;
- (iii) the elongated strip having a center portion and first and second ends;
- (iv) locking elements on the first and second ends;
- (v) means for fastening the iliac crest belt to a body brace;
- (vi) wherein the elongated strip is sized and shaped with the center portion positioned substantially against the lumbar spinal region of the back of the person and the first and second ends positioned against the front of the person when the iliac crest belt assembly is locked about the waist of the person, and
- (vii) the elongated strip being further sized and shaped to engage the iliac crests of the person when the iliac crest belt assembly is locked about the waist of the person

U.S. Patent No. 4,833,730 (Nelson):

The Applicant respectfully submits that the teachings of the '147 patent do not anticipate, nor render obvious, the brace as claimed in amended independent claim 47, and the claims depending therefrom.

Nelson specifically teaches that the inner wrap (12) is formed from a linearly elastic material. See Col. 2, lines 59-61. Nelson does not teach or suggest that the inner wrap (12) could be formed from a substantially rigid material. Independent claim 47, in contrast, claims an elongated strap that is formed from a substantially rigid material, i.e., non-flexible material. See page 17, first two lines of last paragraph.

Further, Nelson specifically teaches that the inner wrap (12) of the back brace (10) is connected to an outer wrap (14) by means of a single longitudinal seam (28). See Col. 3, lines 24-26. Independent claim 47 of the instant application, as amended, does not recite or claim an outer wrap connected to the elongated strip in any manner, let alone by stitching, as taught by Nelson.

Further, Nelson specifically teaches that the inner wrap (12) of the back brace (10) has a support panel (33) comprising an outer layer (36) formed of an inelastic relatively strong material such as vinyl and an inner layer (37) of soft material such as foam rubber connected to the inner wrap (12) by vertical and horizontal peripheral stitching (38, 40). See Col. 3,

lines 59-68, and Col. 4, line 1. Independent claim 47 of the instant application, as amended, does not recite or claim a support panel connected to the elongated strip in any manner, let alone by stitching, as taught by Nelson. Rather, amended independent claim 47 recites that a back shell (13) of a substantially rigid plastic material is attached to the elongated strip (300).

Moreover, Nelson specifically teaches that the inner wrap (12) of the back brace (10) has a support pad (34) formed of a flexible material such as canvas, which covers the support panel (33), fixed at the upper and lower edges thereof by means of horizontal seams (54, 56). See Col. 4, lines 52-55. Independent claim 47 of the instant application, as amended, does not recite or claim any support pad fixed to the elongated strip in the manner taught by Nelson. Rather, amended independent claim 47 recites that a back shell (13) formed of a substantially rigid plastic material is attached to the elongated strip (300).

Based upon the foregoing, the Applicant respectfully submits that the disclosure of Nelson does not anticipate, nor render obvious, the brace as claimed in independent claim 47, and claims depending therefrom, as herein amended.

U.S. Patent No. 6,165,147 (Morrow):

The Applicant respectfully submits that the teachings of the '147 patent do not anticipate, nor render obvious, the brace as claimed in amended independent claim 47, and the claims depending therefrom.

Morrow specifically teaches that the enlarged rear portion (14) includes a molded depression (16). See Col. 3, lines 2-3. Amended independent claim 47 of the instant application, in contrast, does not recite or claim that the center portion of the elongated strip includes a molded depression as taught by Morrow. Moreover, amended independent claim 47 specifically recites that the iliac crest belt assembly (300) is attached to a back shell (13) of a substantially rigid plastic material.

Furthermore, Morrow specifically teaches that the enlarged rear portion (14) has mounted along its top edge an extended portion (20). Amended independent claim 47, in contrast, does not recite or claim that the back shell (13) includes an extended portion mounted to the center portion, as taught by Morrow.

Moreover, Morrow specifically teaches that a packet (40) having a plurality of liquid chambers is attached to the front of the molded depression (16). Independent claim 47, as herein amended, does not recite or claim any type of packet, let alone a packet having fluid filled chambers, attached to the center portion of the elongated strip, as taught by Morrow. Rather, the recited back shell (13) of amended claim 47 is made of a substantially rigid plastic material and does not include any interconnected liquid chambers.

Based upon the foregoing, the Applicant respectfully submits that the disclosure of Morrow does not anticipate, nor render obvious, the brace as claimed in independent claim 47, and claims depending therefrom, as herein amended.

Based upon the Applicant's belief that the foregoing discussions have established the patentability of the claimed body brace of the present application over the teachings of Nelson and Morrow, the Applicant respectfully submits that discussions regarding the teachings of Richards (U.S. Patent No. 5,207,635), Modglin (U.S. Patent No. 5,620,412), and Velazquez (U.S. Patent No. 3,771,513) are moot in connection with the body brace claimed in claims 47-62, as amended.

Based upon the foregoing, the Applicant respectfully submits that claims 47-62, as amended, are patentably distinguishable over the cited references of record. The Examiner is respectfully requested to consider the patentability of these claims in view of the foregoing discussions.

35 USC §112, Second Paragraph:

By means of this Response, the Applicant has amended claim 31 to delete the language "of the type". In addition, claim 51 has been amended to depend from independent claim 47.

Accordingly, the Applicant respectfully submits that claims 31-62, as amended, comply with 35 USC §112, Second Paragraph.

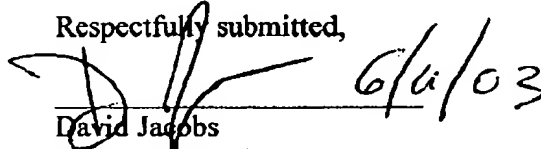
Based upon the foregoing discussions, the Applicant respectfully submits that claims 31-62, as amended, are patentably distinguishable over the cited references of record and comply with 35 USC §112, Second Paragraph. Therefore, the Examiner is respectfully requested to reconsider the patentability of claims 31-62, as amended, in view of the foregoing discussions.

The Applicant has amended the specification, i.e., Brief Description of the Drawings and Detailed Description of the Invention, to specifically reference FIG. 2B, which was filed with the original application, but was not expressly referenced therein. The Applicant respectfully submits that such amendment to the specification does not constitute the addition of new matter.

Based upon the foregoing, the Applicant respectfully submits that the present application is in condition for allowance. The Examiner is therefore respectfully requested to reconsider the allowability of the instant application in view of the discussions herein and the amendments to the instant application by means of this Response.

Should any questions arise concerning this Amendment, or the above-identified patent application in general, the Examiner is cordially invited to contact us.

Respectfully submitted,



David Jacobs

Reg. No. 31,770

LUCASH, GESMER & UPDEGROVE, LLP

Boston, MA 02109

Tel.: (617) 350-6800

Fax: (617) 350-6878